

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

DANA MICALLEF

CASE NO. 18-bk-06259-KSJ
CHAPTER 7

Debtor.

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

PURSUANT TO LOCAL RULE 2002-4, THE COURT WILL CONSIDER THE RELIEF REQUESTED IN THIS PAPER WITHOUT FURTHER NOTICE OR HEARING UNLESS A PARTY IN INTEREST FILES A RESPONSE WITHIN TWENTY-ONE (21) DAYS FROM THE DATE SET FORTH ON THE ATTACHED PROOF OF SERVICE, PLUS AN ADDITIONAL THREE DAYS FOR SERVICE IF ANY PARTY WAS SERVED BY U.S. MAIL.

IF YOU OBJECT TO THE RELIEF REQUESTED IN THIS PAPER, YOU MUST FILE A RESPONSE WITH THE CLERK OF THE COURT AT THE GEORGE C. YOUNG FEDERAL COURTHOUSE 400 WEST WASHINGTON STREET, SUITE 5100, ORLANDO, FL 32801 AND SERVE A COPY ON THE MOVANT'S ATTORNEY, GAVIN STEWART, P.O. BOX 5703, CLEARWATER, FL 33758, AND ANY OTHER APPROPRIATE PERSONS WITHIN THE TIME ALLOWED. IF YOU FILE AND SERVE A RESPONSE WITHIN THE TIME PERMITTED, THE COURT WILL EITHER SCHEDULE AND NOTIFY YOU OF A HEARING, OR CONSIDER THE RESPONSE AND GRANT OR DENY THE RELIEF REQUESTED WITHOUT A HEARING.

IF YOU DO NOT FILE A RESPONSE WITHIN THE TIME PERMITTED, THE COURT WILL CONSIDER THAT YOU DO NOT OPPOSE THE RELIEF REQUESTED IN THE PAPER, WILL PROCEED TO CONSIDER THE PAPER WITHOUT FURTHER NOTICE OR HEARING, AND MAY GRANT THE RELIEF REQUESTED.

Specialized Loan Servicing LLC ("Movant") seeks, pursuant to 11 U.S.C. §362(d), relief from the automatic stay and states:

1. On May 24, 2017, Debtor executed and delivered a promissory note and mortgage securing payment of the note in favor of Equity Prime Mortgage LLC, a Limited Liability Company.

2. Specialized Loan Servicing LLC services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant or Movant's successor or assignee. Movant, directly or through an agent, has possession of the promissory note and has the ability to enforce and foreclose its lien. The note has been duly endorsed and Movant is the assignee of the mortgage. A copy of the promissory note, mortgage and assignment of mortgage is attached hereto as Composite Exhibit "A."

3. The mortgage is secured by the following real property located in Volusia County, Florida:

THE SOUTHERLY 96.5 FEET OF THE NORTHERLY 191.7 FEET AS MEASURED ALONG JOHN ANDERSON HIGHWAY, OF THAT PORTION OF LOT 3, LYING WESTERLY OF THE JOHN ANDERSON HIGHWAY, KINGSTON PARK SUBDIVISION, AS PER MAP IN MAP BOOK 7, PAGE 30, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, TOGETHER WITH ANY AND ALL RIPARIAN RIGHTS APPERTAINING THERETO.

AKA 1888 John Anderson Drive, Ormond Beach, Florida 32176 ("Property")

4. The Debtor is in default. Pursuant to Local Rule 4001-1(c)(1)(C), the following is the default information on the loan as of March 26, 2019, the total debt owed was \$348,285.87 and the loan is due for the November 1, 2018 payment and all subsequent payments.

5. According to the Volusia County Property Appraiser, the value of the Property is \$549,399.00. A copy of the Property Record Card is attached hereto as Composite Exhibit "A."

6. Furthermore, on November 29, 2018, Movant paid the ad valorem property tax bill in the amount of \$11,025.95 without recompense through the collection of escrow or any other payment from the Debtor.

7. Accordingly, cause exists to terminate the automatic stay under 11 U.S.C. §362(d)(1) because Movant is not receiving payments to protect against the erosion of its security interest in the Property.

8. If Movant is not permitted to enforce its lien on the Property, it will suffer irreparable injury, loss, and damage.

WHEREFORE, Movant, respectfully requests the Court enter an order:

- a. terminating the automatic stay;
- b. permitting Movant to take any and all steps necessary to exercise any and all rights it may have in the Property described herein; and
- c. granting such other relief that the Court may deem just and proper.

/s/ Gavin N. Stewart
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Counsel for Movant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by CM/ECF notice and first class mail this 26th day of April, 2019.

/s/ Gavin N. Stewart
Gavin N. Stewart, Esquire

VIA FIRST CLASS MAIL

Dana Micallef
1888 John Anderson Drive
Ormond Beach, FL 32176

VIA CM/ECF NOTICE

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